



## Wichita Police Department Policy Manual

Approved by:

Policy 529 – Stalking

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Maintained by:

Investigations Division

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529.01 Kansas State Statute 21-3438 defines stalking as:

- A. Intentionally or recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;
- B. Intentionally engaging in a course of conduct targeted at a specific person which the individual knows will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family; or
- C. After being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, and amendments thereto, that prohibits contact with a targeted person, intentionally or recklessly engaging in at least one act listed as a course of conduct that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear.
  1. Officers shall make all reasonable and prudent efforts to verify any protective order.
  2. If an order exists but has not been served, every reasonable attempt to serve the order or inform the person of the existence and restrictions included in the order shall be made.

529.02 A "course of conduct" means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct would not include constitutionally protected activity, nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person.

A course of conduct would include, but not be limited to, any of the following acts or a combination thereof:

- A. Threatening the safety of the targeted person or a member of such person's immediate family;
- B. Following, approaching or confronting the targeted person or a member of such person's immediate family;
- C. Appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;
- D. Causing damage to the targeted person's residence or property or that of a member of such person's immediate family;
- E. Placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;
- F. Causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family; and
- G. Any act of communication.

Communication [See K.S.A. 2008 Supp. 21-3438(f)(2) and (f)(3)] means to impart a message by any method of transmission, including, but not limited to: telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer or other programmable device capable of processing data such as cell phone text messaging, or e-mail.

Immediate Family [See K.S.A. 2008 Supp. 21-3438(f)(5)] means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

### ARREST/BOOKING PROCEDURES

529.03 When a violation of the stalking statute has occurred and probable cause exists: the offender shall be booked for stalking HFSW (KSA 21-3438). If the offender has left the scene and probable cause for the violation exists, then a pickup shall be issued as stated in policy 522.02.

- A. The arresting officer or the officer issuing a pick-up charging an offender with stalking shall check central records and initiate a local and NCIC name search (Triple I) to determine if the offender has been previously convicted of stalking. If the offender has a prior conviction for stalking, the offender shall be booked for a felony (HFSW). Triple I's shall be initiated before the incident is cut. The officer shall indicate in the narrative portion

(back of Incident Report) that a Triple I check was completed documenting any prior stalking arrests. A copy of the Triple I shall be forwarded to the Domestic Violence section for review.

1. Upon a first conviction, stalking (as described in 529.01 A) would be a class A person misdemeanor. A second or subsequent conviction would be a severity level 7 person felony;
2. Upon a first conviction, stalking (as described in 529.01 B) would be a class A person misdemeanor. A second or subsequent conviction would be a severity level 5 person felony; and
3. Upon a first conviction, stalking (as described in 529.01 C) would be a severity level 9 person felony. A second or subsequent conviction would be a severity level 5, person felony.

#### INFORMATION NOTIFICATION

529.04 Officers shall make available the following emergency and medical telephone numbers, if needed.

- A. The following may be accomplished by providing the victim a copy of the pink Domestic Violence subpoena (WPD Form 321-128).
  1. The law enforcement agency's report number
  2. The address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;
  3. The name and address of the crime victims' compensation board and information about possible compensation benefits;
  4. Advise the victim that the details of the crime may be made public;
  5. Advise the victim of such victims' rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and
  6. Advise the victim of known available resources which may assist the victim.

#### ROUTING AND DOCUMENTATION OF STALKING CASES:

529.05 Whether an arrest is made or not, an offense report shall be completed on all incidents where a reporting party or victim alleges another person violated the stalking laws on all such incidents.

Stalking cases shall be routed and documented in the following manner:

- A. Whether or not a case must immediately be cut will be determined by Sections 711.08 and 711.09.
- B. In all cases of arrest or pickup-issued, the hand-written narrative shall contain the facts of the case, the suspect's specific actions, the officer's probable cause, unusual circumstances, and all witnesses. The report shall include dates and locations of any previous stalking convictions. A more complete narrative may be phoned in, depending upon the complexity of the case. When officers do not arrest or issue a pickup, the written narrative shall include an explanation.
- C. Include any past stalking incidents alleged by the victim to have been committed by the suspect. Include the jurisdiction in which the alleged stalking occurred and request copies of reports from other agencies when applicable.
- D. Stalking cases shall be routed to the Domestic Violence Section.